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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,186	06/03/2002	Dieter Dohring	TURKP0119US	2547
7590	03/25/2004		EXAMINER	
			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 03/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/031,186	DOHRING ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Amy J. Sterling	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-13 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on not filed is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1.) Certified copies of the priority documents have been received.  
 2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. 
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

This is the **Final Office Action** for application number 10/ 031,186 Laminate Flooring Comprising Tread Sound-Proofing, filed on 1/17/02 claiming priority to PCT/EP99/08510, dated 11/06/1999 and German Application 199 36 127.4, dated 7/31/1999. Claims 1-13 are pending. This **Final Office Action** is in response to applicant's reply dated 1/6/04. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Drawings*

The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81. No new matter may be introduced in the required drawing. The amendments including that the "panel having a top and a bottom surface" would be better understood by use of illustration.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 5, 7-9, 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by 6558765 to Padmanabhan.

Padmanabhan discloses a rigid wood laminate (16) the panel having a top appearance surface and bottom surface, with a layer of thermoplastic material (17, termed FRP, See Col. 4, lines 51-55) which is thinner (See Fig. 2 for thickness ratio) than the wood laminate and is firmly bonded to the bottom surface of the laminate (16), also an adhesive layer is added between the laminate and the FRP, which is also considered part of the thermoplastic layer, made of a thermoplastic including vinyl acetate polymers, used to adhesively bond the layers together, therefore the thermoplastic layer which includes the FRP plus the adhesive have adhesive properties (See Col. 5 lines 47-60 for description of the adhesive). Padmanabhan teaches that the FRP thermoplastic includes an organic filler, such as carbon fibers (See Col. 4 lines 51-52 for fiber selection) and the laminate is assembled over a floor substrate with the thermoplastic engaging the substrate (14), the thermoplastic which is rolled onto the bottom surface of the wood laminate (See Col. 6 lines 11-26 for thermoplastic is heated to a free-flowing state and then roller coated).

Claims 12 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6607803 to Foster.

The Patent to Foster discloses a floor covering (17) assembled over a floor substrate (15) with a layer of thermoplastic (14) engaging the floor substrate (15), the floor substrate including a foam mat (12).

***Claim Rejections - 35 USC § 103***

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6558765 to Padmanabhan as applied to claim 1.

The patent to Padmanabhan teaches the basic inventive concept as shown above with the exception that the specific dimensions of the thermoplastic is not recited. The thickness of the thermoplastic would have been an obvious matter of design choice, since this modification involves a mere change in dimension or size of the element which is generally recognized as being within the level of ordinary skill in the art. See *In re Rose*, 105 USPQ 237 (CCPA 1955).

Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6558765 to Padmanabhan as applied to claim 1 and in view of United States Patent No. 6534207 to Eaton et al.

Padmanabhan teaches the basic inventive concept including a thermoplastic, but does not teach that the thermoplastic has a physical relaxation behavior at ambient temperature or that the thermoplastic layer includes a plasticizer.

Eaton et al. discloses a thermoplastic laminate which states that the thermoplastic is relaxed at ambient temperature, citing an example of this type of thermoplastic being vinyl acetate which is the thermoplastic as taught by Padmanabhan. (See Col. 9, lines 59-62 for description of the properties and Col. 10, lines 15-20 for examples of such a thermoplastic). Therefore it is obvious that in using a thermoplastic material such as vinyl acetate that it is inherent that this material would

exhibit the relaxed behavior at ambient temperature as a property of this type of material. Also, Eaton et al. teaches that thermoplastics of this nature could include a plasticizer for reducing viscosity. (See Col. 10 lines 21-25). Therefore it is obvious to one having skill in the art at the time of the invention to have modified the thermoplastic of Padmanabhan to include a plasticizer for reducing viscosity.

***Response to Arguments***

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art of record is considered pertinent to the applicant's disclosure

The following documents show rigid laminate with thermoplastic

6652955 to Plug

6576577 to Garner

6558766 to Padmanabhan et al.

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.

  
AJS  
Amy J. Sterling  
3/18/04

  
LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER